



# The Patent Cooperation Treaty (PCT)

## OPRI as a (ex-)receiving Office

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## Overview

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3. Principles of compulsory filing with OPRI
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PCT applications filed up until 31 March 2018

## **OLD FILING SYSTEM**

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## **Old filing system**

- Receiving Offices:
  - International Bureau of WIPO
  - European Patent Office
  - OPRI

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## Old filing system

- OPRI as receiving Office

*Art. XI.91, § 1. Without prejudice to the application of the provisions of Article 151 of the European Patent Convention, **the Office acts as receiving Office within the meaning of Article 2 XV of the PCT. [...]***

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## Old filing system

- Compulsory filing with OPRI

Certain applicants have to file their PCT application with OPRI in so far as such application could be of interest to Belgian defence or security.

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PCT applications filed from 1 April 2018

## NEW FILING SYSTEM

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### New filing system

- Receiving Offices:
  - International Bureau of WIPO
  - European Patent Office



OPRI

Agreement between EPO and Belgium

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## New filing system

- OPRI as ex-receiving Office

*Art. XI.91, § 1. [...] the **European Patent Office acts as receiving office within the meaning of Article 2 (xv) of the PCT, approved by the Law of 8 July 1977. [...]***

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## New filing system

- Compulsory filing with OPRI

Certain applicants still have to file their PCT application with OPRI in case of possible interest to Belgian defence or security.

**But:** OPRI no longer acts as receiving Office.

How does this compulsory filing work?

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PCT applications filed from 1 April 2018

## PRINCIPLES OF COMPULSORY FILING WITH OPRI

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### Principles of compulsory filing with OPRI

- Principles:
  - OPRI receives PCT applications on behalf of the EPO
  - EPO acts as receiving Office
  - Receipt date OPRI → receipt date EPOOnly when conditions for filing are fulfilled.

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## Principles of compulsory filing with OPRI

- Conditions for compulsory filing:
  - Nationality or residence of the applicant
    - Belgian nationality or
    - Residence in Belgium or
    - Principal place of business in Belgium.

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## Principles of compulsory filing with OPRI

- Possible interest to defence or security
  - PCT applications which **could** be of interest to the defence of the Belgian territory or the security of the Belgian State
  - Applicant's responsibility to determine whether there could be an interest

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## Principles of compulsory filing with OPRI

- If conditions for filing are not fulfilled:
  - PCT application is not received by the OPRI on behalf of the EPO
  - Receipt date OPRI will not be acknowledged as receipt date by EPO
  - Transmittal of the PCT application to the EPO

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## Principles of compulsory filing with OPRI

- Transmittal to the EPO:
  - Compulsory filing of any document with OPRI until transmittal of the PCT application to the EPO
  - Once transmitted: filing of additional documents with the receiving Office

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PCT applications filed from 1 April 2018

## **IMPORTANT TERMS FOR COMPULSORY FILING WITH OPRI**

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### **Important terms for compulsory filing with OPRI**

- Reminder: receipt date OPRI → receipt date EPO
- Difference in application of terms for PCT applications filed in EN-DE-FR and in NL

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## Important terms for compulsory filing with OPRI

- Applications filed in EN-DE-FR
  - Payment of transmittal fee, international filing fee and search fee
  - Term for payment: 1 month from the receipt date of the PCT application
  - Beneficiary: EPO

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## Important terms for compulsory filing with OPRI

- Instructions for the payment of the fees to the EPO:
  - Until the EPO has notified the PCT application number, the following structure for the payment reference has to be used:  
New PCT\_BE exception, code XXX – amount, code XXX – amount

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## Important terms for compulsory filing with OPRI

- Once the PCT application number has been notified, inform the EPO about any payment already effected, through its Customer Services, mentioning the:
  - PCT application number and
  - Internal number notified by OPRI and
  - Payment date and
  - Payment reference.

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## Important terms for compulsory filing with OPRI

- Applications filed in NL
  - Preliminary remarks:
    - EPO shall not act as receiving Office
    - EPO shall receive the PCT application on behalf of the International Bureau of WIPO
    - Receipt date OPRI → receipt date EPO → receipt date International Bureau of WIPO

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## Important terms for compulsory filing with OPRI

### – Payment of fees:

- Payment of transmittal fee, international filing fee and search fee
- Term of payment: 1 month from the date on which the International Bureau of WIPO **actually** received the PCT application
- Beneficiary: International Bureau of WIPO

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## Important terms for compulsory filing with OPRI

### – Filing of translation:

- Translation into EN, DE or FR
- Term of filing: 1 month from the receipt date of the PCT application \*

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## Important terms for compulsory filing with OPRI

- File translation with:
  - OPRI, if before the transmittal of the PCT application to the EPO
  - International Bureau of WIPO, if after transmittal of the PCT application to the EPO

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Feel free to contact the Office if you have any further questions.

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